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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

No. 929

COMMONWEALTH OIL REFINING COMPANY, INC.,
Petitioner

- against -

MIGUEL A. MARTÍNEZ, FERNANDO L. BAEZ, GILBERTO MÁRQUEZ, ET ALS., *Respondents*

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE COMMONWEALTH OF PUERTO RICO

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Petitioner, Commonwealth Oil Refining Company, Inc., prays that a Writ of Certiorari issue to review the judgment of the Supreme Court of the Common-

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[1] In addition to above named respondents, 382 other employees were named as plaintiffs in Appendix A to the complaint as filed. The names of such additional plaintiffs, who are also respondents here, are listed in Appendix E, *infra* pp. 18a-21a.

wealth of Puerto Rico, entered June 30, 1965,[2] reversing a judgment of the San Juan Part of the Superior Court of Puerto Rico which had dismissed a complaint filed by Respondents and had directed that Respondents' claims be submitted to the grievance and arbitration proceedings required by the collective bargaining agreements entered into by the parties.

CITATIONS TO OPINIONS BELOW

The opinion and judgment of the Supreme Court of the Commonwealth of Puerto Rico are unofficially reported under number 114 of the 1965 series of the Bar Association of Puerto Rico; they are printed in Appendix B, *infra* pp. 3a-8a and are reproduced in the certified transcript (R. 128-133).[3] The judgment of the San Juan Part of the Superior Court of Puerto Rico dismissing the complaint and directing that the claim be submitted to arbitration is not reported. It is printed in Appendix C, *infra* pp. 11a-13a, and is reproduced in the certified transcript of the record (R. 39-41).

JURISDICTION

The judgment of the Supreme Court of the Commonwealth of Puerto Rico is dated June 30, 1965 and was entered on the same date (Appendix B, *infra* p. 8a; R. 133). A petition for rehearing (reconsideration) was duly filed by the petitioner on July 12, 1965 (R. 137-150) and was denied on October 21, 1965 (Ap-

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[2] Rehearing was denied on October 21, 1965.

[3] References are to pages of the certified transcript of the Record which has been filed with this Court.

pendix B, *infra* p. 9a; R. 162). Since Petitioner is claiming a right under a statute of the United States, jurisdiction of this Court is invoked under 75 Stat. 417 (28 U.S.C. 1258(3)). *Goodall-Sanford, Inc.* v. *United Textile Workers of America,* 353 U.S. 550 (1957).

QUESTIONS PRESENTED

1. Whether federal law requires that an employee's additional compensation claim based upon a Puerto Rican statute providing double compensation for work performed during the period for taking food must be submitted to the grievance and arbitration procedures provided for in the collective bargaining agreements between the employer and the union authorized to represent the employee.

2. Whether federal law requires that an employee's wage claim arising out of local statutes enacted subsequent to the execution of collective bargaining agreements between the employer and the union authorized to represent the employee must be submitted to the grievance and arbitration procedures provided for by such agreements, particularly where such rights are subject to collective bargaining.

3. Whether, in deciding that a matter should not be submitted to arbitration in accordance with collective bargaining agreements, the court, under federal law, can consider the merits of the grievance and/or the merits of the arbitration procedure for the settlement of disputes agreed upon by the employer and the employees' authorized agent.

STATUTES INVOLVED

The statutory provision directly involved is Section 301(a) of the Labor Management Relations Act of 1947 (61 Stat. 156, 29 U.S.C. § 185(a)). The text of this provision is reprinted in Appendix A, *infra* p. 1a. Also involved is 29 L.P.R.A. § 283, pp. 191-192 of the 1964 Supplement for use in 1965, the text of which is reprinted in Appendix A, *infra* pp. 1a-2a.

STATEMENT OF THE CASE

Effective June 27, 1961 the Legislature of the Commonwealth of Puerto Rico enacted a statute whereby workers were granted the right to recover double their regular pay rate if they worked during the period of time required by said statute for the purpose of taking their meals except as the employer and employee might otherwise agree by individual stipulation or by collective bargaining. (Appendix A, *infra* pp. 1a-2a).

In disregard of the provisions of applicable collective bargaining agreements, Respondents filed on January 24, 1962, in the Superior Court of Puerto Rico, San Juan Part, a claim against Petitioner seeking recovery of the benefits granted by said Act (R. 1-6).

Following certain preliminary proceedings concerning venue and the constitutionality of the procedural statute under which Petitioner was required to plead, Petitioner filed its answer to the complaint on January 31, 1964 (R. 7-10). In its answer Petitioner alleged, among other things, that it was in interstate commerce and that the Respondents were required to abide by the Grievance and Arbitration procedures

provided in applicable collective bargaining agreements (R. 9).

Thereafter, Petitioner submitted to Respondents a Request for Admissions (R. 11-19). In their answer to the Request for Admissions (R. 22-24), and subsequently by Stipulation (R. 25), Respondents admitted that Petitioner was in interstate commerce; that the collective bargaining agreements referred to in the Request for Admissions were entered into with Respondents' representative, duly certified by the National Labor Relations Board; and that the Grievance and Arbitration clauses of the agreements transcribed in said Request were correct.[4]

Subsequent thereto, the San Juan Part of the Superior Court of Puerto Rico decided on April 2, 1964 that the Respondents' claims were not arbitrable (Appendix C, *infra* p. 10a; R. 26). On June 10, 1964, by way of a motion and before the proceedings had progressed in any material way, Petitioner raised this issue again in the Superior Court (R. 27-36). On the basis of the applicable federal cases, the Superior Court reversed its decision and on June 25, 1964 rendered a judgment dismissing Respondents' claims and directing that they be submitted to arbitration (Appendix C, *infra* pp. 11a-13a; R. 39-41).

On July 30, 1964 Respondents filed with the Supreme Court of Puerto Rico a Petition to Review the judgment of the San Juan Part of the Superior Court of Puerto Rico (R. 43-73). On September 11, 1964 the

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[4] The pertinent provisions of the Grievance and Arbitration clauses referred to above are printed in Appendix D, *infra* pp. 14a-17a (R. 11-13, 15, 16, 18).

Supreme Court issued an order to review the case (R. 88). On June 30, 1965, the Supreme Court rendered an opinion and judgment reversing the judgment rendered by the Superior Court of Puerto Rico. In remanding the case for trial on the merits, it held that Respondents' claims were not arbitrable because (a) recovery was sought under the provisions of a Puerto Rican statute rather than under the collective bargaining agreements; (b) the collective bargaining agreements were entered into prior to the enactment of the said statute and the parties, therefore, could not have intended to arbitrate rights that did not exist at the time the agreements were entered into; and (c) arbitration would entail a delay in the disposition of the claims when the only arbitrable issue would be whether the workers had worked or not during the meal periods, which issue could be resolved by a special master appointed by the trial court. (Appendix B, *infra* pp. 3a-8a; R. 128-133). A timely Motion for Reconsideration was filed by Petitioner on July 12, 1965 (R. 136-150). Reconsideration was denied on October 21, 1965 (Appendix B, *infra* p. 9a; R. 162).

Upon Petitioner's request (R. 165) the Supreme Court of the Commonwealth of Puerto Rico is retaining the mandate in the case to permit Petitioner to file this Petition for Certiorari (R. 176).

REASONS FOR GRANTING THE WRIT

The Supreme Court of the Commonwealth of Puerto Rico has decided important federal questions affecting labor-management relations in a manner in direct conflict with the controlling decisions of this Court and in disregard of congressional policy.

(a) In reversing the lower court and refusing to order arbitration in the instant case, the Supreme Court of the Commonwealth of Puerto Rico has disregarded the clear mandate of this Court and congressional policy requiring federal and state courts alike to enforce agreements to arbitrate. The decisions of this Court in the cases of *Textile Workers Union* v. *Lincoln Mills,* 353 U.S. 448 (1957); *Dowd Box Co.* v. *Courtney,* 368 U.S. 502 (1962); *Teamsters Union* v. *Lucas Flour Co.,* 369 U.S. 95 (1962); *Packinghouse Workers* v. *Needham Packing Co.,* 376 U.S. 247 (1964); and *Republic Steel Corp.* v. *Maddox,* 379 U.S. 650 (1965), clearly require that under Section 301(a) of the Labor Management Relations Act of 1947 (61 Stat. 156, 29 U.S.C. § 185(a)), the claims here in question must be submitted to arbitration. Even though state courts have jurisdiction over litigation within the purview of Section 301(a), they must, under the cited cases, apply the substantive federal labor law which prevails over any conflicting local rules. Established federal policy favors the resolution of labor disputes through the grievance and arbitration procedures established in collective bargaining agreements. *United Steelworkers* v. *Warrior & G. Nav. Co.,* 363 U.S. 574 (1960); *United Steelworkers* v. *American Mfg. Co.,* 363 U.S. 564 (1960); *United Steelworkers* v. *Enterprise Wheel and Car Corp.,* 363 U.S. 593 (1960).

(b) Contrary to the federal labor policy as enunciated in *Teamsters Union* v. *Lucas Flour Co.,* 369 U.S. 95, 103 (1962), the principles considered and the language used by the Supreme Court of Puerto Rico in deciding this case erroneously create, in essence, individualized local rules for the enforcement of agreements to arbitrate in that:

(1) The Supreme Court of Puerto Rico held that since the dispute sought to be arbitrated arose out of alleged rights conferred by Puerto Rican law rather than under the collective bargaining agreements, arbitration was not required.

This holding is in direct conflict with *Buckley* v. *Teyssier,* 332 F. 2d 495, 497 (1964). In that case the United States Court of Appeals for the Ninth Circuit held, in a comparable situation, that all rights of employees, whether derived from statute or from contract, arise out of the fundamental employer-employee relationship established by the collective bargaining agreement. To hold otherwise, as stated by the Court, would "emasculate the arbitration provisions contained in the Collective Bargaining Agreement."

As this Court also has stated, "apart from matters that the parties specifically exclude, all of the questions on which the parties disagree must therefore come within the scope of the grievance and arbitration provisions of the collective agreement." *United Steelworkers* v. *Warrior & G. Nav. Co.,* 363 U.S. 574, 581 (1960). The arbitration clauses of the agreements between Respondents and Petitioner, and more specifically those covering the periods of 1959-61 and 1961-63, are broad and all inclusive and do not exclude any wage claims whatsoever from the subject matter of arbitration (Appendix D, *infra* pp. 14a-17a; R. 11-19).

(2) The Supreme Court of Puerto Rico held that since the collective bargaining agreements were entered into prior to the enactment of the statute under which Respondents brought their claim, the parties could not have intended the arbitration of rights that

did not exist at the time the agreements were entered into.[5]

This holding conflicts with the rationale of the United States Court of Appeals for the Third Circuit in *Donahue* v. *Susquehanna Collieries Co.*, 138 F. 2d 3 (1943). There, in determining the arbitrability of claims arising under federal statute, the Court noted that it is not "significant that the present arbitration clause in the contract between the parties may have had its origin in dealings years before the statute was thought of." 138 F. 2d at 6. The wisdom of this statement is clear. If the contrary were to be sustained, the congressional policy to enforce compliance with agreements to arbitrate grievances and disputes would be thwarted as to disputes relating to any new statute. The simple enactment by a state, for example, of any statute concerned with wages or hours of employees would thus obviate any contractual requirement to arbitrate disputes concerning such matters. And the matters not subject to arbitration could indeed be very numerous. Disputes and grievances with reference thereto would endanger the stability of industrial relations and the industrial peace sought by the Congress in enacting Section 301(a). As stated by this Court, "Arbitration is the means of solving the unforseeable by molding a system of private law for all the problems which may arise and to provide

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[5] Yet, the Respondents in their complaint claimed that their right to recover double their regular pay rate for their meal periods extends back to 1955 (R. 1-2), before any of the collective bargaining agreements had been entered into. The Supreme Court of Puerto Rico held, however, that Respondents' rights accrued "from June 27, 1961 and not before [Appendix B, *infra* pp. 4a-5a; R. 129]."

for their solution in a way which will generally accord with the variant needs and desires of the parties." *United Steelworkers* v. *Warrior & G. Nav. Co.*, 363 U.S. 574, 581 (1960).

(3) The Supreme Court of Puerto Rico, in determining the arbitrability of the claims in dispute, improperly considered the merits of such claims and the utility of the arbitration procedure for resolving them.[6]

The merits of the dispute in the case have no bearing at all on whether a matter should go to arbitration. In *New Bedford Defense Products Div.* v. *Local No. 1113*, 160 F. Supp. 103, 112 (D. Mass.), *aff'd*, 258 F. 2d 522 (1st Cir. 1958), Judge Wyzanski stated, "Issues do not lose their quality of arbitrability because they can be correctly decided only one way." On appeal Chief Judge Magruder stated that ". . . the court in a § 301 proceeding has no business to concern itself with a preliminary question whether the answer to the grievance on its merits may or may not be entirely clear under the language of the agreement."

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[6] The Supreme Court of Puerto Rico stated (Appendix B, *infra* p. 7a; R. 132):

> "Neither the Grievance Committee nor an arbitrator could validly determine that these workers not be payed double compensation for the lunch hour as is ordered by Act 121. They could not interpret any part of the agreement in a way that would lead to a different result. All that the arbitrator could determine is whether all, one, or which worker worked or did not work during the lunch period. The trial court can reach the same determination which does not involve an interpretation of the agreement, through a special master appointed to receive evidence to that effect. We do not see the necessity nor practical purpose of removing the matter from the Court and sending it to a committee with inevitable loss of time involved."

258 F. 2d at 526. Like the court, an arbitrator does not lose his jurisdiction because of the fact that the proper disposition of the claim may be crystal-clear. This Court has also held that, "The courts, therefore, have no business weighing the merits of the grievance, considering whether there is equity in a particular claim, or determining whether there is particular language in the written instrument which will support the claim." *United Steelworkers* v. *American Mfg. Co.*, 363 U.S. 564, 568 (1960).

In its weighing of the utility of arbitration as compared with judicial procedures, the Supreme Court of Puerto Rico ignores the basic concept and function of labor arbitration as expounded by this Court. Arbitration is part of a system of self-government created to further the common goals of the parties by fostering stable relations and industrial peace. It is these considerations which were of paramount concern to the Congress in its enactment of Section 301(a). They can not be ignored in favor of local considerations. To do so, as the Supreme Court of Puerto Rico has done, is directly contrary to the principles established by this Court in *Lincoln Mills* and subsequent cases.

CONCLUSION

The decision of the Supreme Court of the Commonwealth of Puerto Rico which in this case is required to follow applicable federal law is in direct conflict with the decisions of this Court and the decisions of the United States Courts of Appeals cited above. It is, therefore, respectfully prayed that this petition for a Writ of Certiorari be granted.

Respectfully submitted,

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